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ABSTRACT

The concept represented by the term juvenile delinquency covers a wide range of activities and a complex set of juvenile offenses. Moreover, the concept is vague and its definition is often left to the discretion of law enforcement agencies and the courts. A problem for black youth is that their acts are assessed by outsiders who have the power to identify, treat, and label their behavior as delinquent. Where the juvenile is identified, treated, and labeled as delinquent, there is further contact with the juvenile and criminal justice systems. Although the juvenile justice system was an improvement over the earlier handling of juveniles (where they were treated similarly to adults), for black youth the system, especially in its use of official statistics creates the myth that delinquency is somehow associated with blackness and the urban community. The disproportionate numbers of black youth detained by the juvenile justice system is explained by the presence of racism at every level of the system. The system of racism which black people have been subject to over the years operates and manifests itself in the administration of justice. For example, middle and upper class white youth who commit delinquent acts are defined by police and court officials in psychiatric and psychological terms, while the same acts when committed by blacks are defined and handled in criminal and delinquent terms. One of the serious side effects of this racism is that when youth are labeled as delinquents they are forced to play the role they have been given. Once a youth is stamped delinquent, the resources of the police, the court services, the schools, and other official agencies respond to him on the basis of that label, in a manner different from those without the label. In changing the system, the responsibility of the community to black youth is to provide protection from racism and oppression and to provide services that will enhance interpretations and judgements as black youth plan and proceed with action. (Author/AM)

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Branded for Life: The Case of Detained Black Youth

One of the basic problems facing the area of juvenile delinquency is the very concept itself. The concept covers a wide range of activities and a complex set of juvenile offenses. Moreover, the concept is vague and is often left to the discretion of law enforcement and the court to define. Juvenile status offenses, for example, are a whole group of acts that are committed by juveniles that are regarded illegal only for juveniles. For these acts adults would not be arrested. Within the context of broad notions such as "out of control," "beyond control," habitually truant from school," habitually refuses to obey the reasonable and proper orders or directions of parents, guardian, custodian or school authorities, police and court officials exercise their discretion. The juvenile is faced with a vague notion of delinquency with a dual definition. Not only can the juvenile be arrested for those acts which constitute a crime for which an adult may be charged and convicted but may be arrested and connected for those "offenses" that are peculiar to the legal status of the juvenile.

However, the real problem that black youth face is the assessment of their acts or the social interpretation of their behavior in the community by outsiders who have the power to identi-

fy, treat, and label their behavior as delinquent or define them as needing supervision. It is not so much the act alone that constitutes a delinquent act, it is the social interpretation or the assessment plus the act that constitute a delinquent act. Most police bring a different set of values, norms and belief systems to the acts of black youth. Usually police and school officials make an assessment of the black youth in terms of the acts. They often argue that the acts are all they have to go by. On the other hand, parents make an assessment on the basis of the total character. This is the reason that police and school officials are often in conflict with parents regarding the social interpretation of juvenile acts and the disposition of actions to be taken. If parents and community members identifying the behavior do not assess the act as requiring the police the behavior will not be judged delinquent. Most parents do not regard the mere act as sufficient to be judged delinquent.

Where the juvenile is identified, treated, and labeled delinquent by the police and court officials there are serious consequences of further contact with the juvenile and criminal justice systems. We will return to this point later because it is the essence of our understanding of the typing process in becoming branded for black youth by institutional arrangements. This leads to stigmatization of black youth and their community in which they are categorized by society (Becker, 1963).

The Juvenile Justice System

The Juvenile Justice System is significant to the typing and branding of black youth. The system was thought to have represented a crucial improvement over the earlier handling of juveniles where juveniles were treated similar to adults. After some research on the subject, this view was modified and replaced by the belief that the penological philosophy in which the juvenile court and its related structure of delinquent control organizations were based was a progressive ideal, a significant break with the past but that the concept was never translated into efficient action.

Platt (1969) argued that the development of the juvenile court system which resulted in the establishment of a separate court and corrections system for juveniles grew out of socio-political interests and a penal philosophy that were not especially liberal nor radical in nature. Since the main object of the child saving movement was the discovery and control of juvenile delinquency, it "brought attention to and thus invented new categories of youthful misbehavior which had been hetherto unappreciated." The court system intervened in the youth's life to "save" him from a bad nature and environment denying the youth freedom without due process even when no offense had been committed or when acts for which adults were not indictable were involved.

The middle-class women who made up the majority of the child-savers were more concerned about the threat that urbanization,

industrialization and immigration posed to their values than with humanitarian concerns for the youth. Consequently, they promoted a system which incarcerated youth for long periods of time, indeterminately, allowing for the internalization of "middle-class values and lower-class skills" (Platt, 1969). Platt's original position focused on middle-class interests and was a pluralist stance that argued that the success of the child saving movement was due to the fact that it satisfied diverse interest groups.

Criticism forced Platt to reinterpret his earlier view. He argued later (1973) that his earlier work focused too much attention on middle-class reformers and reasoned that "impetus for delinquency legislation flowed from close and compromising links between members of the middle and upper classes" (1974:369), and that "the juvenile court system was part of a general movement directed toward developing a specialized labor market and industrial discipline under corporate capitalism by creating new programs of adjudication and control" (1974:377).

Despite the precise explanation for its origin, the juvenile court was considered to be one of the greatest advances in child welfare in that it was to remove the youth from the stigma of the adult criminal process. The juvenile court was defined as civil rather than criminal and the civil rights of juveniles were not protected. In order to "straighten them out" rather than helping them a more authoritarian approach was assumed as the child savers engaged in procedures that denied children of due process. The

proceeding in the juvenile court was distinguished from those in the criminal court. The language was changed but the consequences remained the same. All the changes were supposed to restructure the proceedings along the lines of the new clinical ideal and to further the goal of investigation, diagnosis, and prescription of treatment rather than to adjudicate guilt or fix blame (President's Commission, 1967:3). However, critics have attacked the system who say on the one hand that it punishes when it says it doesn't and on the other hand fails to safeguard the liberty of the individual juveniles when it is supposed to do so. Decisions rendered by the U. S. Supreme Court in Kent v. United States (1966) even though this was a criminal case, in re Gault (1967) and in the re Winship (1970) resulting from charges that the courts subjected youth to arbitrary decisions and capricious procedures established certain rights of juvenile. The implementation of these rights, however, are being resisted by juvenile court officials. Many juvenile courts have either ignored these decisions or by other subversive strategies have not enforced their principles. In many instances across America juveniles are not afforded the due process guaranteed by the constitution to children accused of criminal conduct. The fact is that presently juveniles are subject to imprisonment whether they are tried for delinquent behavior or for status offenses. Status offenders are overrepresented in state institutions and the majority of these are poor and oppressed juveniles. Even those who are imprisoned for alledged delinquent acts are poor and oppressed.

The juvenile justice system and especially the courts have come to be the process and mechanism for typing, labeling and branding certain individuals as delinquents.

The Use of Official Statistics

When statistical information regarding the extent and nature of delinquency is published it creates a false image of delinquency in the American Social Order. It establishes the myth, through its typing and branding process, that delinquency is somehow associated with blackness and the urban community. Consequently, this has become the truth and reality of the nature and extent of delinquency. The stigma of this myth has had a demoralizing effect on many black youth in the black community and it also hampers the development of successful prevention plans to deal with delinquency and its root causes. This is the picture that is intended to be given and maintained of black youth. It is argued by others, Benjamin Quarles (1967) and George Napper (1976), that this is the picture that is also presented of black people as a whole.

The disportionate numbers of black youth detained by the juvenile justice system is explained by the presence of racism at every level of the system. Those who have been critical of statistical records of police departments, courts and prisons have established the fact that these records are inadequate and invalid. Yet there are those who continue to use these records and argue that regardless of race, youth of the lower "socio-economic status" are more likely to engage in delinquent behavior. The logic being, since there are proportionately more poor and oppressed youth of

this particular social class than other social classes it follows that there would be more poor and oppressed given to delinquent behavior. Studies that do not rely exclusively on official records argue that a large number of delinquent acts are unrecorded in these sources. One report suggest that the police never learn who commit most delinquent acts (Murphy, et. al., 1946). Moreover, individuals from wealthier sections who commit the same kinds of offenses are four to five times less likely to appear in some official record than individuals from poorer parts (Gold, 1963). Data collected by self-reported methods demonstrate that official records exaggerate the extent of delinquent behavior of juveniles from lower status homes and that police are more likely to record officially those offenses committed by lower status youngsters, the children of semi-skilled and unskilled parents. Middle and upper-class youngsters, especially white youngsters get away with delinquency and poor kids get records.

The use of official records which show an over-representation of lower class oppressed persons in criminal populations has been a controversial issue, and has led to the development of a theoretical position that focuses on factors of lower class life as casual explanations of crime and delinquency even though they indicate correlation and not causations. There is no doubt that law enforcement agencies exercise selective bias against lower-class and oppressed populations. The differential enforcement patterns such as detention of sucpicious persons and harassment of certain community groups and

saturated patrol of these communities are self-fulfilling practices that inflate arrest rates and criminal records. Official statistics are nothing more than indicators of official processing decisions rather than evidence of actual rates of criminality. This argument is strengthened by evidence generated by self-reported and victimization surveys. Crime levels exceed officially recorded rates by several times and the statistical difference in criminal involvement are reflective of variations in the reporting of offenses and of the differential law enforcement practices among the various classes and races.

It is not just the disproportionate lower socio-economic status among blacks and other oppressed people that explain the disproportionate number of them which comprise the criminal statistics and occupy the juvenile and detention homes. It is the definition of blackness that is operationalized by the police and court officials upon contact with blacks that translate into racists decisions that also explain the situation. The system of racism which black men and women have been subjected to over a long period of time in the American social order is still operating and manifests itself in the administration of justice. Middle and upper-class white youth who commit delinquent acts are defined by police and court officials in psychiatric and psychological terms, while the same acts committed by black youth are defined and handled in criminal and delinquent terms (Wright, 1977).

Data collected in Southern states indicate that even though black youth committed less official delinquent acts over a period of

five years (1970-1975) in the areas such as burglary, larceny, auto theft, forgery and counterfeiting, vandalism, driving under the influence, drunkenness, vagrancy and disorderly conduct, they make up the majority of individuals detained in state juveniles homes (Swan, 1977).

The majority of these black youth come from communities that are politically and economically powerless. Their parents also lack contact with powerful persons or with institutions and organizations with some degree of power. Most of the families are so busy making a living that they are afraid they would lose their jobs if they took off to attend the hearings of their youth. Consequently, the youth are usually without legal representation and parental presence at the hearings. Moreover, the practice of pastors appearing on behalf of the parents asserting some degree of moral persuasion and community concern has ceased in many communities.

The great majority of the black youth who are processed through the juvenile system and detained are between the ages of 14 and 17. Aside from the fact that their parents do not have political and economic power to invoke upon the contact of their children with the juvenile justice system, their parents do not own their own homes, and many live in substandard housing. Their incomes are between $3,000 and $7,000 dollars per year, and most of them have an education level between elementary and high school. However, the majority of the parents themselves have not had any contact with the criminal justice system or the juvenile justice system.

A significant number of black youth who are detained are detained for status offenses, that is non-criminal acts. These status offenders are usually apprehended for subsequent delinquent behavior. It is argued that if they were not apprehended for the initial status offenses they would less likely have been apprehended for index offenses and misdemeanors. Because police are more likely to stop and question black youth than white youth and because their dispositions are more harsher on black youth than white youth, black youth are more likely to be referred to juvenile court than white youth. Moreover, black youth are more likely to receive recommendations for psychiatric examination and treatment. There is little doubt that blackness is defined and operationalized at every level of the juvenile justice system in relation to whiteness. The consequence is that a significant number of black youth get typed as delinquents and a defined process is established and maintained which allows for a disportinate number of black youth to experience the process and its typing. This is the case for the majority of black youth who come in contact with the juvenile justice system whether or not they committed an index crime, misdemeanor or a status offense.

The same selectivity which exist in the records of police also exist in the records of the courts and juvenile corrections. This situation is the direct or indirect results of the function of arrest and the function of police discretion. The judicial system also allows for a great degree of discretion to judges. Judges and police are products of their experiences, class background, training,

prejudices, racial notions and emotional conflicts. In fact, most of what the law is and has come to be is a matter of what judges think the rule of law should be. Judges and police have much leeway in the decisions that they make. Their failure to enforce and apply the same standards in all cases has resulted in racial and class injustices. It is implicit in the discretion of the police to arrest and the power given to judges that black youth get processed as delinquents and labeled in the juvenile justice system.

Labeling theorists argue that when we talk about delinquent reference is being made to someone who has been labeled as such by the juvenile justice system. The juvenile is forced to play the role he has been given once he is labeled even if he prefers another course. It is important that attention is focused on the interactive aspects of delinquency taking into account the delinquent activity and the performer as well as those who come to define the situation and the actor as delinquent. This is essential to an understanding of how only certain juveniles from certain communities get branded as delinquents even though all juveniles regardless of race and class commit acts that may be defined as delinquent. Reality is grounded in the symbols we use to talk about it. As W. I. Thomas puts it, "if men define situations as real, they are real in their consequences." Moreover, most juveniles who do not experience independence of identity come to see themselves as they are defined by others. A juveile who has been labeled delinquent is more likely to commit acts that are consistent with this identity than a youth who has not been so labeled.

A number of social, cultural, psychological and economic factors may cause the original act, but what is more important is an adaptation to the official reaction to the original act in terms of social roles, social identity, and process in fixing a person in a delinquent category. "The label is designed as a stigma and the process by which a person is discredited as stigmatization. The process separates the juveniles from others who are not stigmatized and bring those who are of like stigma into contact with one another" (Goffman, 1963). The extent to which black youth get caught up in this process suggests the permanence of the brand. Most black parents whose children get identified by police to be processed do not have the social status, the economic resources, and political clout to fight the attempt to fix stigma. It is because of this lack of economic and political power and not necessarily because of their greater delinquent activity, that black youth are over-represented in official statistics. Given the process, since blacks and the poor are more likely to be labeled and stigmatized as delinquents, they are more likely to be forced, by the process, into the role of delinquents and thereby actually be involved in more delinquent acts.

Police and court officials have the power not only to define the situation and create the social reality of delinquency, but they have the power to make their definition stick. The juvenile is an active participant in the process but it is in the direction of the definition and the power of the juvenile justice system officials. In the process of the identification, treatment, and labeling, the

juveniles find it difficult to manipulate the process through impression management and performances. Most officials disregard the claims most black youth make of themselves. The identities of those juveniles that are processed are made in these situations and follow them around as a constant.

Official agents are not mere responders to delinquent behavior, in a significant number of instances they initate certain actions in the lives of black youth whether or not delinquent behavior is displayed. The consequences of this situation is far reaching. Most behavior is shaped in interaction with significant others in one's social world. Juveniles usually act in ways that are consistent with their reputation in their social world. In this regard the President's Commission (1967) notes that "when the process of role definition moves from the informal labeling of peers and neighbors to the official stamp of the state, it is quite another matter and its ramifications are likely to be more serious. So long as the community's classifications of young person remains informal, the likelihood that it can be modified by changing circumstances remains possible. But the official labeling of a misbehaving youth as delinquent places him in a clear category which is difficulty to escape. Once a youth is stamped delinquent, the resources of the police, the court services, the schools, and other official agencies respond to him on the basis of that label, in a manner different from those without the label. Further, this label becomes known to the public, whose view of the individual then becomes colored by it.

Soon the individual who is seen by his community as delinquent and is treated by the official agents on the basis of this label, begins to perceive himself as delinquent and to act in accordance with it."

What should receive our primary attention, therefore, is the initial contact of the juvenile justice officials with black youth For it is the police contact with black youth and their discretion to arrest that puts the juvenile justice system into operation. Success in this regard ends in those arrested being sent to juvenile homes. The function is that it gives the appearance of police activity; satisfies the need of the juvenile justice officials; identifies apparent delinquency; creates a parasitical relationship between the subsystems of the juvenile justice system and provides legitimation to the process. However, these functions are not fulfilled if certain juveniles are detained by juvenile officials. Furthermore, for these functions to be realized the initial contact must extend itself to the detention of those arrested. Those who are more likely to fulfill these needs and cause these functions to be realized are oppressed powerless people who have an inability to exercise any power upon contact with the system. It is at this point that efforts should be organized to change the juvenile justice system. It is the police function to arrest and the juvenile judge discretionary function to define and detain that is the primary reason for the racial and class composition of the juvenile home population and the fixing of a stigmatizing brand of black youth.

A Question of Emphasis

It is not sufficient to simply divert the youth to community based programs. The Law Enforcement Assistance Administration has recently provided $10 million for public and private agencies with minorities programs that will divert juvenile offenders from the juvenile justice system. This action was taken from a variety of reasons, but the most important reason is that most delinquency prevention programs have failed. Reasons for the failure vary from the argument of a strained relationship between theoreticians and practitioners to ineffective, inadequate and imprecise techniques and strategies. One of the most important reasons, one that officials are reluctant to acknowledge is the lack of adequate explanatory and descriptive data, especially about the lives of the youth into which the system attempts to intervene. Neither is there an appropriate political perspective which challenges the political and economic assumptions of delinquency and social control. Most of the theroretical notions which are themselves competing and conflicting in their explanations focus upon such factors as the kind of family life, or the kind of personality of the juveniles, very few tell in any details what the youth thinks of himself, his community, his behavior or what his daily life means to him. The focus must also take into account and offer analysis of the social system itself and the character of its arrangements as it impacts the community of black youth. Then we would be in a position to understand the nature of human action and the process development of the executed act and those conditions created therefrom.

What can be said concerning black youth is that in the process of growing up in a hostile world where the definition of blackness is implicit in decisions and policies to dominate, regulate, brand, and subordinate individuals and their community, it becomes difficult for the majority of black youth to avoid the intent of the system to identify and label them deviant especially if they make decisions that do not conform to the articulated norms of the wider society even when these norms are not practiced by those who articulate them.

The responsibility of the community to black youth is to provide protection from racism and oppression and to provide services that would enhance interpretations and judgments as our youth plan and proceed with action. This responsibility is crucial in light of the present political and economic condition that our youth face, and the historical powerless position of black people and their community.

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